

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 19, 2005

IN RE:

**PETITION OF TENNESSEE WASTEWATER
SYSTEMS, INC. TO EXPAND ITS SERVICE
AREA TO INCLUDE A PORTION OF BLOUNT
COUNTY, TENNESSEE KNOWN AS TRILLIUM
COVE CONDOMINIUMS**

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**DOCKET NO.
05-00030**

**ORDER APPROVING PETITION TO AMEND
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

This matter came before Chairman Pat Miller, Director Deborah Taylor Tate and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on June 13, 2005 to consider the *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* (the "*Petition*") requesting that the Authority expand its service area to include a portion of Blount County, Tennessee known as Trillium Cove Condominiums.

Legal Standard for Granting Certificate of Public Convenience and Necessity

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining approval of the Authority. The procedure for obtaining a Certificate of Public Convenience and Necessity ("CCN") evidencing such approval is set forth in Tenn. Code Ann. § 65-4-201(a), which states as follows:

(a) No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service

therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate. . .

Background

On April 6, 1994, Tennessee Wastewater Systems, Inc.¹ (“TWS” or “Company”) received a CCN in Docket No. 93-09040 from the Tennessee Public Service Commission to provide wastewater service to the Oakwood Subdivision in Maury County. Since that time, through various other dockets, the Company has been granted approval to expand its service territory to include other areas in Tennessee. The Company’s principal office is located in Nashville, Tennessee.

TWS filed the *Petition* in this matter on January 24, 2005. The Authority issued Data Requests on March 22 and April 8, 2005. TWS provided responses to the Data Requests in a timely manner. TWS filed the Pre-filed Direct Testimony of Charles Pickney, Jr. on May 25, 2005.

The Petition

On January 24, 2005, TWS filed the *Petition* requesting that its service area be expanded to include a portion of Blount County, Tennessee known as Trillium Cove Condominiums. TWS attached several letters to its *Petition* in support of its request to expand its service area. First, TWS attached a letter from the developer expressing its desire that TWS provide service to the property. Second, TWS attached letters from each of the three other potential wastewater service

¹ Tennessee Wastewater Systems, Inc. was formerly known as On-Site Systems, Inc. This name change was effected by the TRA’s order of February 19, 2004, in Docket No. 03-00518

providers stating that each does not presently provide service to the area, nor do they intend to do so.²

Rate Schedules

The Company also attached rate schedules listing the Company's commercial sewer rates (with and without food service), a billing summary of the Company's residential sewer rates, a listing of the Company's sewer systems with commercial customers, and a service area map showing the proposed location of Trillium Cove Condominiums.³

The monthly residential rate will be thirty-five dollars and eleven cents (\$35.11). Other residential fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00), a returned check fee of twenty dollars (\$20.00), and an annual access fee of eighty-four dollars (\$84.00).

The monthly commercial rate, *without food service*, will be based on the design flow expected from the type of establishment being served. A minimum of seventy-five dollars (\$75.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site⁴ charges which will be a minimum of seventy-three dollars (\$73.00) plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of fifteen dollars (\$15.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

² See *Petition* (unnumbered attachments) (January 24, 2005) Letter from Richard Olson, President, Earthbound, L P., Letter from Neal Hutchens, General Manager, Tuckaleechee Utility District to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (December 8, 2004), Letter from Kenny Myers, Mayor, City of Townsend to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (December 7, 2004), Letter from Beverly D Woodruff, Mayor, Blount County to Michael Hines, Vice President, Tennessee Wastewater Systems, Inc (June 10, 2004)

³*Petition*, (unnumbered attachments) (January 24, 2005).

⁴ "Off site" means the treatment and disposal are performed by another entity

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$140.00	\$165.00	N/A
Lagoon	\$116.00	\$140.00	N/A
Off Site	N/A	N/A	Pass-Through Costs+\$73.00

For design daily flows over 3,000 gallons, the monthly charge on all system configurations will be one hundred sixteen dollars (\$116.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$175.00
1,001 gallons to 2,000 gallons above expected design flow	\$200.00
Over 2,000 gallons above expected design flow	\$200.00/1000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

The monthly commercial rate, *with food service*, will be based on the design flow expected from the type of establishment being served. A minimum of one hundred dollars (\$100.00) per month will be charged for the first 300 gallons per day design flow expected (except off-site charges which will be a minimum of ninety-four dollars (\$94.00) plus pass through costs). For each additional 100 gallons per day of design flow expected, up to 1,000 gallons per day, an additional charge of eighteen dollars (\$18.00) per month per 100 gallons will be applied. For design flows expected over 1,000 gallons per day, up to 3,000 gallons per day, the following monthly charges per 1,000 gallons of daily flow will apply:

<u>Treatment</u>	<u>Drip/Spray Irrigation</u>	<u>Point Discharge</u>	<u>Off Site</u>
Sand-Gravel Filter	\$170.00	\$192.00	N/A
Lagoon	\$142.00	\$163.00	N/A
Off Site	N/A	N/A	Pass-Through Costs+\$94.00

For design daily flows over 3,000 gallons, the monthly charge on all system. configurations will be one hundred forty-two dollars (\$142.00) per 1,000 gallons of daily flow. Additional surcharges will apply when expected design flows are exceeded. For any month that a customer's water meter reading exceeds the expected design flow, the following surcharges will apply:

<u>Excess water usage</u>	<u>Surcharge</u>
1 gallon to 1,000 gallons above expected design flow	\$210.00
1,001 gallons to 2,000 gallons above expected design flow	\$220.00
Over 2,000 gallons above expected design flow	\$220.00/1000 gallons

If the water meter readings exceed the design flow for any three consecutive months, the monthly charge will be revised to reflect the increased usage. The customer will pay capital costs associated with increasing the capacity of the system.

Other commercial fees include a five percent (5%) fee for non-payment, a disconnection fee of ten dollars (\$10.00), a reconnection fee of fifteen dollars (\$15.00) and a returned check fee of twenty dollars (\$20.00).

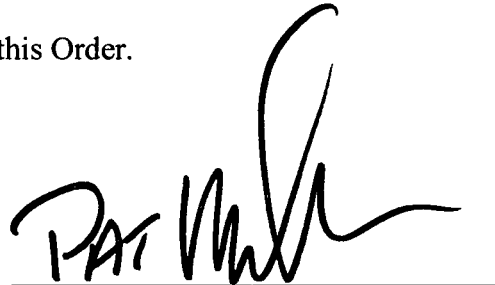

The June 13, 2005 Authority Conference

Pursuant to Tenn. Code Ann. § 65-4-201(a) public notice of the Hearing in this matter was issued by the Hearing Officer on May 10, 2005. No person sought intervention prior to or during the Authority Conference. At the regularly scheduled Authority Conference held on June 13, 2005 the Panel took administrative notice of TWS's 2004 annual report filed with the Authority. Additionally, Ms. Brandy Pruitt, Office Administrator for TWS, participated, presented testimony and was subject to examination by the Panel.

Upon presentation of the Company's proof, based on the evidentiary record as a whole and in light of the legal standard set forth in Tenn. Code Ann. § 65-4-201(a) and the fact that TWS has received a State Operating Permit from the Tennessee Department of Environment and Conservation, Chairman Pat Miller, Director Deborah Taylor Tate and Director Sara Kyle voted unanimously to grant approval of the *Petition of Tennessee Wastewater Systems, Inc to Amend its Certificate of Convenience and Necessity* to expand its service area to include Trillium Cove Condominiums.

IT IS THEREFORE ORDERED THAT:

1. The *Petition of Tennessee Wastewater Systems, Inc. to Amend its Certificate of Convenience and Necessity* to expand its service area to include Trillium Cove Condominiums in Blount County, Tennessee, as shown in the map attached to the *Petition* is approved.
2. The Petitioner's rates for wastewater service shall be as listed in the rate schedules filed with the *Petition* and as set forth in this Order.


Pat Miller, Chairman
Deborah Taylor Tate, Director
Sara Kyle, Director